

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**James N. & Virginia A. Sourbeer,**  
Petitioners-Appellants,

**v.**

**Polk County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 11-77-1125**  
**Parcel No. 090/01630-000-000**

On March 11, 2013, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioners-Appellants James and Virginia Sourbeer were self-represented. Assistant County Attorney David Hibbard is counsel for the Board of Review and represented it at hearing. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

James and Virginia Sourbeer, owners of property located at 3737 John Lynde Road, Des Moines, Iowa, appeals from the Polk County Board of Review decision reassessing its property. The real estate was classified residential on the January 1, 2011, assessment and valued at \$569,800, representing \$99,700 in land value and \$470,100 in dwelling value.

According to the property record card, the subject property is a two-story, single family residence with a total of 4120 square feet of living area, 2045 square feet of basement area with 366 square feet of finish, and a 260 square-foot patio. It also has an 880 square-foot, detached garage. The property was built in 1956. It is in above normal condition, has a high quality (2+10) quality construction grade, and is located on 0.758 acres.

The Sourbeers protested to the Board of Review on the ground that the property is inequitably assessed under Iowa Code section 441.37(1)(a)(1); and that there was an error in the assessment under Iowa Code section 441.37(1)(a)(4). Their error claim is essentially that a measurement error in the property's square footage resulted in an excessive assessment, which is similar to an over assessment claim under section 441.37(1)(a)(2).

The Board of Review re-evaluated the assessment based upon evidence indicating the property record card overstated the property's square footage. The Board of Review adjusted the property's total living area to 3606 square feet (a reduction of 494 square feet) and the improved area of the basement to 366 square feet (a reduction of 834 square feet) while the total size of the basement was increased to 2436 square feet (an increase of 391 square feet). The Board of Review then lowered the assessment on the subject property to \$534,400, allocated \$99,700 in land value and \$434,700 in dwelling value.

The Sourbeers then appealed to this Board re-asserting their claims. They seek an assessment of \$500,000, representing \$99,700 in land value and \$400,300 in dwelling value. Their claim is two-fold. First, the Sourbeers argue the Board of Review should have reduced the property's assessed dwelling value proportionate to the reduction in its size. They contend the Board of Review reduced the combined size of the property's first and second floors by twelve-percent and, after applying a proportionate twelve-percent reduction to the assessed dwelling value, the value of the dwelling should now be \$413,688.<sup>1</sup> Secondly, the Sourbeers argue the comparable properties they provided to the Board of Review are assessed for less than \$500,000 and, therefore, the subject property's assessment should not exceed \$500,000.

The Sourbeers listed three equity comparable properties on their petition to the Board of Review. These properties are summarized below.

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<sup>1</sup>  $\$470,100 - (\$470,100 \times .12) = \$413,688$

Comparable	Address	Age	TSFLA	Grade	Condition	2011 Assessment
Subject		1956	3606	(2+10)	Above Normal	\$534,400
1	3821 John Lyne Rd	1917	3398	(1+00)	Above Normal	\$457,100
2	3736 John Lyne Rd	1936	3372	(1-10)	Above Normal	\$500,000
3	3714 John Lyne Rd	1971	3306	(1-10)	Below Normal	\$455,200

James Sourbeer testified that all the homes on his street are unique, varying in square-footage, lot size, age, and other amenities. The Sourbeers made no adjustments to account for differences between their comparables and the subject, making accurate comparison difficult. Further, they did not offer evidence of recent sales of these comparable properties or any other evidence of their market value. This evidence is necessary in order to determine if the subject property is inequitably assessed.

We note, however, the comparables are of better grade than the subject property and two of the three properties have larger lots, yet all are assessed for less than the subject property. Because of this, it appears that the subject property may be over assessed. As a result, we suggest the Board of Review arrange for another review of the subject property to ensure it is assessed at its fair market value.

Ultimately, the Sourbeers did not provide an appraisal of the subject property or adjusted sales prices of comparable properties from which the subject property's market value can be derived. Therefore, the evidence is insufficient to demonstrate the subject property is inequitably assessed or over-assessed.

### ***Conclusion of Law***

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or

additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

*Id.* at 579-580. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this

actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

The Sourbeers did not supply any evidence that the assessor applied an assessment method in a non-uniform manner to the subject property. Additionally, they did not provide evidence of their comparables' market values, such as recent sales or appraisals, for comparison with their assessed values. This evidence is required in order to conduct a sale-ratio analysis under *Maxwell*. For these reasons, we find the Sourbeers have failed to meet their evidentiary burden to succeed on their equity claim.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The Sourbeers believe the Board of Review should have lowered the subject property's assessed dwelling value by the same percentage it reduced the size of the property's first and second floors. By the Sourbeers' calculation, the Board of Review reduced the size of property's first and second floors by twelve-percent. They believe the Board of Review should have also reduced the assessed dwelling value by twelve-percent, resulting in an assessment of \$413,688 for the dwelling and a total assessed value of \$513,388.

The Sourbeers' assertion is based on the assumption that each square foot of the property is equally valuable as the next and that a reduction in the property's size will cause an equal reduction in the property's value. This, however, is not the case as changes in a property's size do not necessarily result in an equal change in the property's value.

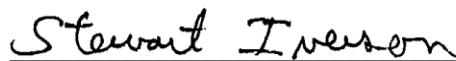
The Sourbeers provided no other evidence of the property's correct value as of January 1, 2011, such as an appraisal or adjusted sales of comparable properties. Although they did not establish the

subject property's correct value, the Sourbeers did introduce evidence of comparable properties which suggests the subject may be over-assessed. As a result, we recommend the Board of Review conduct an additional review of the subject property to ensure it is assessed at its fair market value.

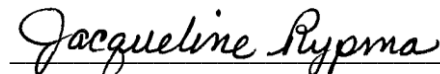
Therefore, we affirm James and Virginia Sourbeer property assessment as determined by the Polk Board of Review. The Appeal Board determines the property assessment value as of January 1, 2011, is \$534,400, representing \$99,700 in land value and \$434,700 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2011, assessment as determined by the Polk County Board of Review is affirmed.

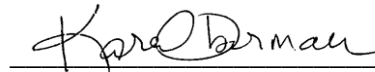
Dated this 3rd day of April, 2013.



Stewart Iverson, Presiding Officer



Jacqueline Rypma, Board Member



Karen Oberman, Board Member

Copies to:

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Certificate of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on April 3, 2013.

By: ☒ U.S. Mail ☐ FAX  
☐ Hand Delivered ☐ Overnight Courier  
☐ Certified Mail ☐ Other

  
Signature \_\_\_\_\_